

The Honorable John C. Coughenour

UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF WASHINGTON AT SEATTLE

WOLFIRE GAMES, LLC et al.,

Plaintiffs,

v.

VALVE CORPORATION,

Defendant.

Case No. 2:23-mc-00037-JCC

**PRAECIPE TO DEFENDANT VALVE
CORPORATION'S OPPOSITION TO
NEXON AMERICA, INC.'S MOTION
TO QUASH SUBPOENA (DKT. #32)**

TO: Clerk of Court

Pursuant to Local Civil Rule 7(m), please substitute the attached page 5 to Defendant Valve Corporation's Opposition to Nexon America, Inc.'s Motion to Quash Subpoena (Dkt. #32) (the "Opposition").

The Opposition incorrectly stated the relief requested by Valve with respect to Request 1 on page 5 at lines 16-20. The attached corrected page 5 makes two corrections: (1) it narrows the requested relief by removing the second item of requested relief, which appeared at page 5, lines 18-20 in the Opposition, and (2) it makes a related correction in line 16 to remove numbering. The reason for the correction is that Nexon's counsel did not make the assertion as stated in the second item of requested relief regarding Nexon's revenues as a distributor of

1 Software. Rather, the assertion related to Nexon's revenues from the sale of physically
2 packaged games. The attached substitute page 5 makes no other changes.

3 DATED this 24th day of May, 2023.

4 FOX ROTHSCHILD LLP

5
6 s/ Gavin W. Skok

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14 *Attorneys for Defendant Valve Corporation*

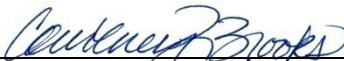
CERTIFICATE OF SERVICE

I certify that I am a secretary at the law firm of Fox Rothschild LLP in Seattle, Washington. I am a U.S. citizen over the age of eighteen years and not a party to the within cause. On the date shown below, I caused to be served a true and correct copy of the foregoing on counsel of record for all other parties to this action as indicated below:

<u>Service List</u>	
Brantley Ian Pepperman QUINN EMANUEL URQUHART AND SULLIVAN LLP 865 South Figueroa Street, 10 th Floor Los Angeles, CA 90017 Ph. 213-443-3000 Fax: 213-443-3100 Email: brantleypepperman@quinnemanuel.com <i>Attorneys for Plaintiffs</i>	<input type="checkbox"/> Via US Mail <input type="checkbox"/> Via Messenger <input checked="" type="checkbox"/> Via CM/ECF / Email <input type="checkbox"/> Via over-night delivery
Jared L. Cherry PCFB LLC 4001 South 700 East, Suite 500 Salt Lake City, UT 84107 Ph. 801-935-4932 Fax: 801-935-4936 Email: jared@pcfblaw.com Michael W. Ellison SMITH ELLISON APC 2151 Michelson Drive Suite 185 Irvine, CA 92612 Ph. 949-442-1500 Fax: 949-442-1515 Email: mellison@sehlaw.com <i>Attorneys for Nexon America Inc.</i>	<input type="checkbox"/> Via US Mail <input type="checkbox"/> Via Messenger <input checked="" type="checkbox"/> Via CM/ECF / Email <input type="checkbox"/> Via over-night delivery

1 I declare under penalty of perjury under the laws of the State of Washington that the
2 foregoing is true and correct.

3 EXECUTED this 24th day of May, 2023, in Seattle, Washington.
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6 _____
Courtney R. Brooks
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ATTACHMENT

1 sales. Along with similar information from other major video game vendors, this information
 2 will help Valve to determine the size of the relevant market worldwide and in the U.S., and
 3 Valve's share thereof, key information Valve requires to rebut Plaintiffs' monopolization
 4 allegations. The subpoena sought monthly sales but Valve compromised on annual sales to
 5 reduce Nexon's burden. For worldwide numbers, Nexon pointed Valve to publicly available
 6 documents from 2011 forward on its parent company's investor relations website.² Those
 7 publicly available materials do not break out NAI's (or Nexon Co. Ltd.'s) U.S. sales, which
 8 Valve needs to be able to address a U.S.-only market consistent with Plaintiffs' allegation of a
 9 geographic market that "*is at least as broad as the United States.*"

10 Valve is willing to accept aggregated annual U.S. sales data from 2011 forward, but that
 11 is not part of NAI's offer in the Joint Statement. On May 16, NAI offered to produce sales and
 12 unit data it has for 2011 and later, but on May 18 stated that it only has U.S.-only data from
 13 2020 and later. Valve suggested on May 18 that NAI might be able to identify U.S. sales by
 14 looking at state or national sales tax or address information stored by NAI or its payment
 15 servicer, and NAI said it would continue to try.

16 Valve respectfully requests that NAI be ordered to use reasonable efforts to identify and
 17 produce annual U.S.-only sales and unit data from 2011 to 2022, responsive to Request 1.

Request 2	Valve requests annual Software sales revenue from 2003 to the present that NAI received for Software it caused to be distributed on a distribution platform not operated or under its control.
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24 ² NAI's parent was first publicly listed in 2011. Breslauer Decl. Ex. F at 2. The investor
 25 relations materials are on <https://ir.nexon.co.jp/en/library/result.html> at the "Quarterly
 26 Earnings" subpage.